

REMARKS

Claims 1, 2, 4-7 and 14-17 are currently pending in the application, as amended. Claims 1, 16 and 17 have been amended to particularly identify the four walls of the square-tubular case and to include an extracting outlet or tear-off portion that is provided on a side wall and extends to portions of the front and rear walls. Claims 1 and 16 are further amended to clarify that unit packages are removed from the outlet or tear-off portion by grasping the unit package through the extracting outlet or tear-off portion at the front and rear walls. Support for these amendments can be found in Figs. 1, 3-8 and 11, and throughout the Specification, including paragraphs 30, 42, 43 and 52. Accordingly, no new matter has been added.

DRAWINGS

The Examiner approved the proposed drawing corrections filed on March 11, 2003, but stated that corrected drawings are required in response to the current Office Action. Accordingly, three sheets of formal drawings (labeled Replacement Sheets) of Figs. 5, 6, 9, 10 and 12 incorporating the approved corrections are enclosed herewith.

CLAIMS

Claim Rejections - 35 U.S.C. § 103

The Examiner rejected claims 1, 2, 4 and 16 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 1,272,411 (Fitz Gerald) in view of U.S. Patent No. 2,299,072 (Novak) and U.S. Patent No. 4,971,197 (Worley). The Examiner argues that Fitz Gerald discloses each of the elements of claims 1, 2, 4 and 16 except for a square-tubular case and unit packages containing a plurality of stick-like articles. The Examiner further argues that Worley teaches unit packages containing a plurality of stick-like articles and Novak teaches a square-tubular case, and that it would have been obvious to one having ordinary skill in the art to modify Fitz Gerald according to Worley and Novak to produce the device of claims 1, 2, 4 and 16 of the present invention. In view of the foregoing amendment, Applicants respectfully traverse this rejection.

Claims 1 and 16, as amended, recite in relevant part, "said extracting outlet or the tear-off portion is provided on a side wall and extending to portions of the front and rear walls of said square-tubular case." Claims 1 and 16 further recite a unit package that, "is removed by pulling

one end of the stick-like articles in the unit package through the opening in the side wall by grasping the unit package through the extracting outlet at the front and rear walls.”

Applicants respectfully submit that even if it were proper to combine Fitz Gerald, Worley, and Novak the combination would not disclose each and every element of either claim 1 or claim 16. Even if Fitz Gerald were modified to be square there would still be no extracting outlet that extends to the front and rear walls of the dispenser. Instead, Fitz Gerald discloses removing items by pushing them at one end through a first side wall outlet so that the items protrude out of and can be removed at a second side wall outlet that is positioned opposite the first outlet. Claims 1 and 16 disclose removing items through a single side wall outlet by grasping the packages through the extracting outlet at the front and rear walls and pulling the packages out of the opening. Since any proposed combination must teach or suggest all of the elements of the present invention in order to support an obviousness rejection, the rejection of claims 1 and 16 is improper.

In view of the above argument, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of claim 1 and claim 16 based upon unpatentability over Fitz Gerald in view of Novak and Worley.

Claims 2 and 4 are dependent upon claim 1. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of claims 2 and 4 based upon unpatentability over Fitz Gerald in view of Novak and Worley, for the same reasons discussed above in connection with claim 1.

The Examiner rejected claims 5 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Fitz Gerald in view of Novak as applied to claim 1, and further in view of U.S. Patent No. 5,460,322 (Carlson et al.). In light of the foregoing amendment, Applicants respectfully traverse the rejection.

Claims 5 and 14 are dependent upon claim 1 which is patentable for the reasons discussed above. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of claims 5 and 14 based upon unpatentability over Fitz Gerald in view of Novak, Worley, and Carlson et al.

The Examiner rejected claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Fitz Gerald in view of Worley and Novak as applied to claim 1, and further in view of U.S.

Patent No. 5,836,478 (Weiss). In view of the foregoing amendment, Applicants respectfully traverse this rejection.

Claim 6 is dependent upon patentable claim 1 and is therefore also patentable. Applicants respectfully request that the Examiner reconsider and withdraw any rejection of claim 6 based upon unpatentability over Fitz Gerald in view of Worley, Novak and Weiss for the same reasons discussed above in connection with claim 1.

The Examiner rejected claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Fitz Gerald in view of Worley and Novak as applied to claim 1, and further in view of U.S. Patent No. 3,927,809 (Klein, Sr.).

Claim 7 is dependent upon patentable claim 1. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of claim 7 based upon unpatentability over Fitz Gerald in view of Worley, Novak and Klein, Sr. for the same reasons discussed above in connection with claim 1.

The Examiner rejected claim 17 under 35 U.S.C. § 103(a) as being unpatentable over Fitz Gerald. The Examiner argues that Fitz Gerald discloses each and every element of claim 17 except for the square-tubular case and it would have been obvious to one of ordinary skill in the art at the time of the invention to make the case of Fitz Gerald with a square shape. Applicants respectfully traverse this rejection.

As discussed above, Fitz Gerald does not disclose an extracting outlet that extends to portions of the front and rear walls. Amended claim 17, like amended claims 1 and 16, recites a single extracting outlet that is provided on a side wall and extends to portions of the front and rear walls. Claim 17, as amended, recites in relevant part, “an extracting outlet or a tear-off portion being formed through a side wall extending to portions of the front and rear walls.”

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of claim 17 based upon unpatentability over Fitz Gerald.

Allowable Subject Matter

The Examiner objected to claim 15 as being dependent upon a rejected base claim but indicated that it would be allowable if rewritten in independent form including all of the limitations of the base claim and the intervening claims. In view of the foregoing Amendment, Applicants have traversed the rejection of claim 1. Claim 15 is now dependent upon a patentable

base claim. Therefore, Applicants submit that claim 15 is in condition for allowance and such action is respectfully requested.

CONCLUSION

Based on the above Amendment and remarks, Applicants respectfully submit that the present application, including claims 1, 2, 4-7 and 14-17 is in condition for allowance and such action is respectfully requested. respectfully requested.

Respectfully submitted,

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